

### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2 290 BROADWAY NEW YORK, NY 10007-1866

SEP 2 3 2016

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

7015 0640 0001 0675 5500

Richard Kuhl, Vice President State Metal Industries Inc. 941 S Second Street Camden, NJ 08103

Re: Request for Information under Section 114 of the Clean Air Act Reference Number: CAA-02-2016-1465

Dear Mr. Kuhl:

The Clean Air Act, 42 U.S.C. §§ 7401 et seq. (CAA or the Act), at Section 114, 42 U.S.C. § 7414 authorizes the U.S. Environmental Protection Agency (EPA) to require submittal of information to, among other things, assess compliance with the Act and regulations promulgated pursuant to the Act. Pursuant to Section 112 of the Clean Air Act as amended, EPA promulgated regulations related to secondary aluminum production at major and area sources. These regulations are known as the National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production (Secondary Aluminum NESHAP) located at 40 C.F.R. Part 63 Subpart RRR. This Information Request Letter requires State Metal Industries Inc. (State Metal) to submit information with respect to its compliance with applicable federal requirements for its facility located at 941 S Second Street, Camden, New Jersey (Facility).

Pursuant to Section 114 of the Act, this Information Request Letter requires State Metal to submit all of the information requested by EPA in <u>Enclosure 1</u>. Failure to submit the requested information is a violation of Section 114 of the Act, and may result in an order to comply, an order for administrative penalties, or a civil action for penalties and an injunction requiring compliance pursuant to EPA's enforcement authority under Section 113 of the Act (see <u>Enclosure 2</u>). In accordance with Section 113(c)(2)(A) of the Act, any person who knowingly makes any false statement, representation, or certification in, or omits material information from or knowingly alters, conceals, or fails to file a response to this requirement is subject to criminal penalties.

You may choose to assert a business confidentiality claim covering all or part of the information submitted. You may not, however, withhold any information on that basis. In order for EPA to consider a claim of business confidentiality for one or more of the documents submitted by you, a cover sheet, stamped or typed legend, or other suitable form of notice must be placed on or attached to the document

with language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by EPA.

For each confidentiality claim, the date or occurrence of any event after which the information can be released should be indicated, if applicable. If no confidentiality claim accompanies the information received by EPA, it may be made available to the public without further notice to you. EPA will disclose information covered by a confidentiality claim only to the extent allowed by, and in accordance with, the procedures set forth in EPA's public information regulations, 40 C.F.R. § 2.201 et seq. (See 41 Fed.

In order to fully comply with this Information Request, your response must include a completed Certification of Response (Attachment to Enclosure 1), notarized by a notary public, and signed by you or another officer of your company. Please include the above-cited Reference No. CAA-02-2016-1465, in all of your responses to this Information Request. The response must be in electronic format (MS Excel, Adobe PDF and/or MS Word). Your responses to the questions in Enclosure 1, including all supporting documents and the Certification of Response, must be submitted to EPA within the schedule provided for in this Information Request to:

Robert Buettner, Branch Chief Air Compliance Branch U.S. Environmental Protection Agency 290 Broadway, 21<sup>st</sup> Floor New York, New York 10007-1866

You should be aware that EPA may require the submittal of additional information after receiving the information required by this letter. Subsequent additional requests for information will be considered part of this original request and subject to the aforementioned requirements. Further, if within one year of the date of this Letter, you obtain information different from, or in addition to, the information provided in response to this Letter, or if there is any change affecting the information submitted, you must notify EPA and submit the relevant information no later than twenty (20) calendar days after such information becomes available.

A request for an extension of time to respond to this, or any other portion of this Information Request, must be in writing to Mr. Buettner at the address above, must include the reason(s) for the delay in responding and must include the requested subsequent date for responding. An extension of time will be effective only if granted by EPA in writing.

You may address any questions concerning this matter to Mr. Victor Tu of the EPA Region 2 Air Compliance Branch, at (212) 637-3476. We appreciate your prompt response.

Sincerely,

Dore F. LaPosta, Director

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Division of Enforcement and Compliance Assistance U.S. Environmental Protection Agency, Region 2

**Enclosures** 

#### **Enclosure 1**

In Part III below, the U.S. Environmental Protection Agency (EPA) requires the submittal of information regarding the operation of the one (1) shredder, three (3) furnaces, and one (1) dross dryer at the State Metal Facility, located in Camden, New Jersey (Facility).

### Part I: Instructions

In preparing your responses, please refer to the following instructions:

A complete and separate response must be provided for each numbered information request paragraph below. Identify each response with the same paragraph number to which it responds.

Provide all supporting documentation for each response. Supporting documentation includes, but is not limited to, company records (such as logs, receipts, ledgers, etc.), notifications or reports that have been submitted to EPA and/or the New Jersey Department of Environmental Protection (NJDEP), manufacturer's equipment specifications and equipment certifications, and other similar types of documents. For each document submitted, indicate the paragraph number to which it responds.

Provide as precise and complete a response as possible, even if the information sought was never documented in writing or if the written documents are no longer available. Consult with all present and past employees and agents whom you or other employees or officers have reason to believe may be familiar with the matter to which the question pertains. Provide the name of each person responding to each information request paragraph, along with the names of all persons consulted in the preparation of each response.

If the requested information or documentation cannot be made available, state the reason(s) why it cannot be made available, and provide all information that could lead to obtaining it. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be specific.

In response to each question below, please provide, in detail, all relevant information. Provide this information, via electronic media, in an electronic form that may be formatted by a spreadsheet program such as Microsoft Excel, or comparable software. If the information requested is not in existence or is not available, submit a statement certifying that such information is either not in existence or not available, along with an explanation supporting such certification.

Pursuant to Section 114 of the Clean Air Act, State Metal must supply the requested information. The requested information must be submitted in accordance with the schedules in Part III, Specific Information Request, unless EPA grants, in writing, an extension of time to respond.

### Part II: Definitions

All terms used in this Information Request will have their ordinary meaning unless such terms are defined in the Act, 42 U.S.C. § 7401 and other Clean Air Act implementing regulations. Where reference is made to the EPA regulatory provisions only; however, you should also apply the applicable federally-approved state provisions when appropriate. Definitional clarification is specified below.

a. Add-on air pollution control device means equipment installed on a process vent that reduces the quantity of a pollutant that is emitted in the air.

b. Aluminum scrap means fragments of aluminum stock removed during manufacturing (i.e., machining), manufactured aluminum articles or parts rejected or discarded and useful only as material for reprocessing, and waste and discarded material made of aluminum.

c. Aluminum scrap shredder means a unit that crushes, grinds, or breaks aluminum scrap into a more uniform size prior to processing or charging to a scrap dryer, delacquering kiln, decoating kiln, or furnace. A bale breaker is not an aluminum scrap shredder.

d. Bag leak detection system means an instrument that is capable of monitoring particulate matter loading in the exhaust of a fabric filter (i.e., baghouse) in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to monitor relative particulate matter loading.

e. Clean charge means furnace charge materials, including molten aluminum; T-bar; sow; ingot; billet; pig; alloying elements; aluminum scrap known by the owner or operator to be entirely free of paints, coatings, and lubricants; uncoated/unpainted aluminum chips that have been thermally dried or treated by a centrifugal cleaner; aluminum scrap dried at 343 °C (650 °F) or higher; aluminum scrap delacquered/decoated at 482 °C (900 °F) or higher, and runaround scrap.

f. D/F means dioxins and furans.

g. Dioxins and furans means tetra-, penta-, hexa-, and octachlorinated dibenzo dioxins and furans.

h. Dross means the slags and skimmings from aluminum melting and refining operations consisting of fluxing agents(s), impurities, and/or oxidized and non-oxidized aluminum, from scrap aluminum charged into the furnace.

i. Dross-only furnace means a furnace, typically of rotary barrel design, dedicated to the reclamation of aluminum from dross formed during melting, holding, fluxing, or allowing operations carried out in other process units. Dross and salt flux are the sole feedstocks to this type of furnace.

j. Feed/charge means, for a furnace or other process unit that operates in batch mode, the total weight of material (including molten aluminum, T-bar, sow, ingot, etc.) and alloying agents that enter the furnace during an operating cycle. For a furnace or other process unit that operates continuously, feed/charge means the weight of material (including molten aluminum, T-bar, sow, ingot, etc.) and alloying agents that enter the process unit within a specified time period (e.g., a time period equal to the performance test period). The feed/charge for a dross only furnace includes the total weight of dross and solid flux.

- k. Fluxing means refining of molten aluminum to improve product quality, achieve product specifications, or reduce material loss, including the addition of solvents to remove impurities (solvent flux); and the injection of gases such as chlorine, or chlorine mixtures, to remove magnesium (demagging) or hydrogen bubbles (degassing). Fluxing may be performed in the furnace or outside the furnace by an *in-line fluxer*.
- 1. *HCl* means, for the purposes of this subpart, emissions of hydrogen chloride that serve as a surrogate measure of the total emissions of the HAPs hydrogen chloride, hydrogen fluoride and chlorine.
- m. *In-line fluxer* means a device exterior to a furnace, located in a transfer line from a furnace, used to refine (flux) molten aluminum; also known as a flux box, degassing box, or demagging box.
- n. Lime means calcium oxide or other alkaline reagent.
- o. Lime-injection means the continuous addition of lime upstream of a fabric filter.
- p. PM means, for the purposes of this subpart, emissions of particulate matter that serve as a measure of total particulate emissions and as a surrogate for metal HAPs contained in the particulates, including but not limited to, antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, and selenium.
- q. Reactive fluxing means the use of any gas, liquid, or solid flux (other than cover flux) that results in a HAP emission. Argon and nitrogen are not reactive and do not produce HAP.
- r. Secondary aluminum processing unit (SAPU). An existing SAPU means all existing group 1 furnaces and all existing in-line fluxers within a secondary aluminum production facility. Each existing group 1 furnace or existing in-line fluxer is considered an emission unit within a secondary aluminum processing unit. A new SAPU means any combination of individual group 1 furnaces and in-line fluxers within a secondary aluminum processing facility which either were constructed or reconstructed after February 11, 1999, or have been permanently redesignated as new emission units pursuant to § 63.1505(k)(6). Each of the group 1 furnaces or in-line fluxers within a new SAPU is considered an emission unit within that secondary aluminum processing unit.
- Secondary aluminum production facility means any establishment using clean charge, S. aluminum scrap, or dross from aluminum production, as the raw material and performing one or more of the following processes: scrap shredding, scrap drying/delacquering/ decoating, thermal chip drying, furnace operations (i.e., melting, holding, sweating, refining, fluxing, or alloying), recovery of aluminum from dross, in-line fluxing, or dross cooling. A secondary aluminum production facility may be independent or part of a primary aluminum production facility. For purposes of this subpart, aluminum die casting facilities, aluminum foundries, and aluminum extrusion facilities are not considered to be secondary aluminum production facilities if the only materials they melt are clean charge, customer returns, or internal scrap, and if they do not operate sweat furnaces, thermal chip dryers, or scrap dryers/delacquering kilns/decoating kilns. The determination of whether a facility is a secondary aluminum production facility is only for purposes of this subpart and any regulatory requirements which are derived from the applicability of this subpart, and is separate from any determination which may be made under other environmental laws and regulations, including whether the same facility is a "secondary metal production facility" as that term is used in 42 U.S.C. § 7479(1) and 40 C.F.R. 52.21(b)(1)(i)(A) ("prevention of significant deterioration of air quality").

## Part III: Specific Information Requests

Pursuant to Section 114 of the Act, State Metal must supply the requested information within thirty (30) calendar days after receipt of this Information Request, unless otherwise specified.

- 1. Provide the correct legal name, title and business mailing address of the person or persons answering this Information Request. Identify each position that the person has held at the Facility, and identify the functions/responsibilities performed in connection with each position.
- Provide the full legal name and mailing address for the Facility.
- 3. Provide a general description of the operations performed at the Facility.
- 4. Provide the names of the corporate officers of State Metal and any parent company or subsidiaries that are either owners or operators of the Facility. Along with their names and job titles, provide their addresses, phone numbers, and e-mail addresses.
- 5. Provide current copy of all required plans and reports, including any revisions, with records documenting conformance with the applicable plan, including:
  - a. The current startup, shutdown, and malfunction plan; (40 C.F.R. § 63.1515 (b)(10))
  - b. The current Operation, Maintenance, and Monitoring (OM&M) plan; (40 C.F.R. § 63.1515 (b)(9))
  - c. The current site-specific secondary aluminum processing unit emission plan (if applicable); (40 C.F.R. § 63.1517 (b)(16)(iii))
  - d. Last Full Performance Test Report (Stack Test Report); (40 C.F.R. § 63.1512)
  - e. Initial notifications submitted to the applicable permitting authority; (40 C.F.R. § 63.1515 (a))
  - f. Initial notification of compliance status report; (40 C.F.R. § 63.1515 (b)) and
  - g. Annual Compliance Certification Reports for the past 5 years. (40 C.F.R. § 63.1517 (c))
- 6. Identify the pages and sections where the following required information is provided in the original OM&M plan. If any part of the required information is not in the OM&M plan, explicitly state this in your response and state why it was not included in the OM&M plan. (40 C.F.R. § 63.1510 (b) and 40 C.F.R. § 63.1510 (s))
  - (a) Process and control device parameters to be monitored to determine compliance, along with established operating levels or ranges, as applicable, for each process and control device.
  - (b) A monitoring schedule for each affected source and emission unit.

- (c) Procedures for the proper operation and maintenance of each process unit and add-on control device used to meet the applicable emission limits or standards in 40 C.F.R. § 63.1505.
- (d) Procedures for the proper operation and maintenance of monitoring devices or systems used to determine compliance, including:
  - (i) Calibration and certification of accuracy of each monitoring device, at least once every 6 months, according to the manufacturer's instructions; and
  - (ii) Procedures for the quality control and quality assurance of continuous emission or opacity monitoring systems as required by the general provisions in 40 C.F.R. Part 63, subpart A.
- (e) Procedures for monitoring process and control device parameters and if applicable, the procedure to be used for determining charge/feed (or throughput) weight if a measurement device is not used.
- (f) Corrective actions to be taken when process or operating parameters or add-on control device parameters deviate from the value or range established in OM&M plan, including:
  - (i) Procedures to determine and record the cause of any deviation or excursion, and the time the deviation or excursion began and ended; and
  - (ii) Procedures for recording the corrective action taken, the time corrective action was initiated, and the time/ date corrective action was completed.
- (g) A maintenance schedule for each process and control device that is consistent with the manufacturer's instructions and recommendations for routine and long-term maintenance.
- (h) Documentation of the work practice and pollution prevention measures used to achieve compliance with the applicable emission limits and a site specific monitoring plan.
- (i) The identification of each emission unit in the secondary aluminum processing unit.
- (j) The specific control technology or pollution prevention measure to be used for each emission unit in the secondary aluminum processing unit and the date of its installation or application.
- (k) The emission limit calculated for each secondary aluminum processing unit and performance test results with supporting calculations demonstrating initial compliance with each applicable emission limit.
- (l) Information and data demonstrating compliance for each emission unit with all applicable design equipment, work practice or operational standards.

- (m) The monitoring requirements applicable to each emission unit in a SAPU and the monitoring procedures for daily calculation of the 3-day, 24-hour rolling average.
- 7. Were there any changes to the original OM&M plan after it was signed and certified by State Metal? If yes, provide copies of all revisions of the OM&M plan. Provide a summary for each of the revision.
- 8. Have you submitted to EPA and/or NJDEP the Notice of Compliance Status Report with all attachments to comply with 40 C.F.R. § 63.1515(b)? If yes, provide a copy of the notice. If not, explain why not.
- 9. Provide the Furnace Production Report for all furnaces at State Metal for the past 5 years, ending at the date of this information request. Clearly separate the reports by the specific furnace that it is for.
- 10. Provide detail descriptions of all terms used in the Furnace Production Report noted in item 9, above, in a MS Word file. When explaining the terms used, provide applicable technical information, including but not limited to units, calculations, limits, standards.
- 11. Provide records in MS Excel format, for the past 5 years, ending at the date of this information request, of 15-minute block average inlet temperatures for each lime-injected fabric filter, including any period when the 3 hour block average temperature exceeds the compliant operating parameter value by or more 14 degrees (deg) C (25 deg F) with a brief explanation of the cause of the excursion and the corrective action taken. (40 C.F.R. § 63.1517(b)).
- 12. Provide records in MS Excel format, for the past 5 years, ending at the date of this information request, of 15-minute block average weights of gaseous or liquid reactive flux injection, total reactive flux injection rate and calculations (including records of the identity, composition, and weight of each addition of gaseous, liquid or solid reactive flux), including records of any period the rate exceeds the compliant operating parameter value and corrective action taken. (40 C.F.R 63.1517(b)).
- 13. Provide the "Emission Control Data Logsheet" for all furnaces at the State Metal for the past 5 years, ending at the date of this information request.
- 14. Provide a detailed description of all the terms used in the Emission Control Data Logsheet noted in item 11, above, in a MS Word file. When explaining the terms used, provide applicable technical information, including but not limited to units, calculations, limits, standards.
- 15. Provide all records/logs of baghouse bag maintenance and replacement for the past 5 years, ending at the date of this information request.
- 16. Provide the calibration documentation for the baghouse inlet temperature monitoring device for the past 5 years, ending at the date of this information request.

- 17. Provide the manufacturer's name and model number for the inlet temperature monitoring device.
- 18. Provide a copy of the manufacturer's manual for the baghouse inlet temperature monitoring device.
- 19. If the lime injection rate was changed in the past 5 years, provide the date, specific change made and the underlying reason(s) for this change. Provided the amount of lime in both bags-per-shift and pounds-per-shift.
- 20. Explain the purpose of injecting lime in the baghouse, where the injector port(s) is/are located, how the flow rate(s) is/are measured, and how State Metal is assured that lime is flowing continuously at all times.
- 21. Provide the calibration documentation for the lime flowrate monitoring device for the past 5 years, ending at date of this information request.
- 22. Provide the manufacturer's name and model number for the lime flowrate monitoring device.
- 23. Provide the manufacturer's manual for the lime flowrate monitoring device.
- 24. Was opacity from the furnace baghouse exhaust evaluated at minimum on a daily basis? Provide opacity log for last five years, ending at date of this information request.
- 25. Provide a list of all employees who are assigned the responsibility to assess the emissions from the furnaces and baghouse stack.
- Provide a list of all employees who are certified to conduct Method 9 (40 C.F.R. Part 60, Appendix A) visible emission evaluations currently and for the past five (5) years, ending at the date of this information.
- 27. Provide clear description of how the gross heat input is evaluated.
- 28. Provide computer/manual log of the gross heat input to all three furnaces for the past past five (5) years, ending at the date of this information request.
- 29. Provide copies of the Annual Certification for the past past five years, ending at date of this information request.
- 30. Provide schematic flow diagram of the three furnaces and the nine baghouse control system.
- 31. Provide a general description of the baghouse system used to control to the emission from the three furnaces at State Metal, including but not limited to, its maximum capacity, its

- control efficiency, the number of bags, its air-to-cloth ratio, concurrent flow or parallel flow arrangement, etc.
- 32. Is there an emission bypass system that is attached to the exhaust of the furnace prior to it entering the baghouse? Clearly annotate these bypasses in the schematic flow diagram provided in response to item 30.
- Provide logs of when these emission bypasses are turned on for the past five (5) years, ending at the date of this information request.
- 34. Provide the training material used for training operators in the operations of the bag house, include but not limited to, the training material for responses to bag house leaks, the criteria of a leak, the require response time, and the evaluation of opacity when a leak occurs.
- 35. Explain the mechanism that the triggers the broken-bag alarm system?
- 36. Is the broken-bag alarm system equipped with an audible alarm?
- 37. Is the broken-bag alarm system equipped with visual/audible alarm?
- 38. Can the alarm be seen/heard by operators outside the enclosure that houses the control panel? If not, explain why not.
- 39. Is the broken-bag alarm system connected to any indication device outside the enclosure that houses the control panel? If so, explain where and how the operator and/or staff member are made aware of the broken-bag alarm.
- 40. Is there a person stationed at the control panel at all time when the furnace is operating? If not, explain how often the control panel is checked when the furnace is in operation.
- How many times per shift does the operators check on the baghouse control panel for the broken bag indicator? Provide the logs that shows the operator rounds for the past five (5) years, ending at the date of this information request.
- 42. Provide copies of any Standard Operating Procedure which indicates the frequency at which the baghouse control panel is evaluated.
- 43. Are the nine individual compartments that make up the emission controls system for the three furnaces fitted with their own individual broken-bag alarm? If not, how does the operator know which compartments is broken when the alarm sound? Provide a thorough explanation.
- 44. Provide the procedures that an operator would perform when a leak in the bag house system is detected. Provide the Standard Operating Procedure that is associated with the response to a leak in the bag house.

- How is the leaking bag(s) in the compartment of the bag house system evaluated and repaired? Does State Metal staff conduct this evaluation and repair or is this work contracted out? Provide Standard Operating Procedures corresponding to this process.
- 46. Is there an automatic control interlock present that prevents the flow of flue gases to the compartment where the broken bag(s) is/are located?
- Were visible emission evaluated at the baghouse stack when the broken-bag alarm went off in the past 5 years? If visible emission evaluations were performed in the past 5 years when the broken-bag alarm went off, provide corresponding logs and/or monitoring results.
- Were daily visible emission evaluations of the baghouse stack performed? Provide corresponding logs/monitoring results for the past five (5) years, ending at the date of this information request.
- 49. Provide a list of all employees that are certified to perform visible emission (VE) evaluations using EPA Method 9 (40 C.F.R. Part 60, Appendix A). Provide copies of their most recent Method 9 VE recertification.
- Provide a general description of the baghouse used to control the emission from the shredding operation at State Metal, including but not limited to, its maximum capacity, its control efficiency, the number of bags, and its air-to-cloth ratio.
- 51. Is the lime used in the shredder baghouse different from the lime used in the furnace bag house?
- What is the lime injection rate to the baghouse attached to the shredder baghouse? How is this monitored? Provide logs that shows the feed rate of the lime to the shredder bag house.
- How many pounds of lime are loaded in the hopper per hour that feeds the baghouse attached to the shredder?
- 54. Provide purchase records for **all** lime purchased for the past five years, ending at the date of this information request, by State Metal. Include lime used in both shredder and furnaces baghouses.
- 55. Provide copies of the filled-in Dust Management Plan Checklist for the past five years, ending at the date of this information request.
- Provide copies of the shredder and shredder baghouse Operation Logs which include but not limited to, monitoring of loads, operation time, pressure drops across the baghouse, monitoring of visible emissions, and lime feed rates for the past five years, ending at the date of this information request.

- 57. Describe the relationship between Ambient Engineering and State Metal. Describe all documentation that is provided to Ambient Engineering. Describe the work/deliverables that Ambient Engineering provides State Metal.
- 58. Provide a list of all documents State Metal provided to Ambient Engineering pertaining to environmental compliance work for the past five years, up to the date of this information request.
- 59. Provide all reports State Metal obtained from Ambient Engineering for the past five years listed in item 58.
- 60. Provide the Annual and Periodic Production and Heat Analysis Tables for all furnaces in EXCEL format for the past five years, ending at the date of this information request.
- 61. Provide a detailed description of **all** the terms used in the Annual and Periodic Production and Heat Analysis Tables provided in response to item 60, above, in a MS Word file. When explaining the terms used, provide applicable technical information, including but not limited to units, calculations, limits, standards and the source of the data.
- 62. Provide a detailed description of the dross dryer and the emission control equipment associated with it.
- 63. Provide the permit application submitted to the NJDEP for the dross dryer.
- 64. When did the dross dryer start operation?
- Was a performance test for the dross dryer conducted? Provide all performance test that have been completed for the dross dryer.
- 66. Provide a list of all emission units in the Facility that are equipped with fume hoods.
- 67. Provide information on the design of the capture and collection systems for the three furnaces and the one dross dryer at the Facility. Provide documentation on how these systems were designed to meet the engineering standards for minimum exhaust rates as published by the American Conference of Governmental Industrial Hygienists in chapters 3 and 5 of Industrial Ventilation: A Manual of Recommended Practice (40 C.F.R. § 63.1506 (c)).
- 68. Certify that the emission capture and collection systems were designed and installed in accordance with <u>Industrial Ventilation: A Manual of Recommended Practice</u>; operated in accordance with the OM&M plan (40 C.F.R. § 63.1506 (c)).
- 69. Provide records of annual inspections of emission capture/collection and closed vent systems.

70. Have opacity events ever been observed escaping the fume hood? If so, provide all logs of these events and corrective actions taken for the past 5 years, up to the date of this information request.

# ATTACHMENT TO ENCLOSURE 1

# **CERTIFICATION OF RESPONSE**

State of	;		
County of	;		
I certify, und	er penalty of law, that I has	ve personally evamined	and am famil

I certify, under penalty of law, that I have personally examined and am familiar with the information submitted in response to the Information Request and all documents submitted with this response, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted with this response.

§ 7413.

#### (...) In general

(1) Order to comply with SIP

Whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator may, without regard to the period of violation (subject to section 2462 of title 28)-

(A) issue an order requiring such person to comply with the requirements or prohibitions of such plan or permit,

(B) issue an administrative penalty order in accordance with subsection (d) of this section, or

(C) bring a civil action in accordance with subsection (b) of this section.

(2) State failure to enforce SIP or permit

Whenever, on the basis of information available to the Administrator; the Administrator that violations of an applicable implementation plan or an approved permit program under subchapter V of this chapter are so widespread that such violations appear to result from a failure of the State in which the plan or permit program applies to enforce the plan or permit program effectively, the Administrator shall so notify the State. In the case of a permit program, the notice shall be made in accordance with subchapter V of this chapter. If the Administrator finds such failure extends beyond the 30th day after such notice (90 days in the case of such permit program), the Administrator shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan or permit program (hereafter referred to in this section as "period of federally assumed enforcement"), the Administrator may enforce any requirement or prohibition of such plan or permit program with respect to any person by-

(A) issuing an order requiring such person to comply with such requirement or prohibition.

(B) issuing an administrative penalty order in accordance with subsection (d) of this section, or

(C) bringing a civil action in accordance with subsection (b) of this section.

(3) EPA enforcement of other requirements.

Except for a requirement or prohibition enforceable under the preceding provisions of this subsection, whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of this subchapter, section 7603 of this title, subchapter IV-A, subchapter V, or subchapter VI of this chapter, including, but not limited to, a requirement or prohibition of any rule, plan, order, waiver, or permit promulgated, issued, or approved under those provisions or subchapters, or for the payment of any fee owed to the United States under this chapter (other than subchapter II of this chapter), the Administrator may-

(A) issue an administrative penalty order in accordance with subsection (d) of this

section.

(B) issue an order requiring such person to comply with such requirement prohibition.

(C) bring a civil action in accordance with subsection (b) of this section or section

7605 of this title, or

(D) request the Attorney General commence a criminal action accordance with subsection (c) of this section.

(4) Requirements for orders:

An order issued under this subsection (other than an order relating to a violation of section 7412 of this title) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation. occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation and specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1)) is issued to a corporation, a copy of such order (or notice) shall be issued to

appropriate corporate officers. An order issued under this subsection shall require the person to whom it was issued to comply with the requirement as expeditiously as practicable, but in no event longer than one year after the date the order was issued, and shall be nonrenewable. No order issued under this subsection shall prevent the State or the Administrator from assessing any penalties nor otherwise affect or limit the State's or the United States authority to enforce under other provisions of this chapter, nor affect any person's obligations to comply with any section of this chapter or with a term or condition of any permit or applicable implementation plan promulgated or approved under this chapter.

(5) Failure to comply with new source

requirements

Whenever, on the basis of any available information, the Administrator finds that a State is not acting in compliance with any requirement or prohibition of the chapter relating to the construction of new sources or the modification of existing sources, the Administrator may—

(A) issue an order prohibiting the construction or modification of any major stationary source in any area to which such

requirement applies; [1]

(B) issue an administrative penalty order in accordance with subsection (d) of this section, or

(C) bring a civil action under subsection (b)

of this section.

Nothing in this subsection shall preclude the United States from commencing a criminal action under subsection (c) of this section at any time for any such violation.

(b) Civil judicial enforcement

The Administrator shall, as appropriate, in the case of any person that is the owner or operator of an affected source, a major emitting facility, or a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than \$25,000 per day for each violation, or both, in any of the following instances:

 Whenever such person has violated, or is in violation of, any requirement or prohibition of an applicable implementation plan or permit.

Such an action shall be commenced

(A) during any period of federally assumed enforcement, or

(B) more than 30 days following the date of the Administrator's notification under subsection (a)(1) of this section that such person has violated, or is in violation of, such requirement or prohibition.

(2) Whenever such person has violated, or is in violation of, any other requirement or prohibition of this subchapter, section 7603 of this title, subchapter IV—A, subchapter V, or subchapter VI of this chapter, including, but not limited to, a requirement or prohibition of any rule, order, waiver or permit promulgated, issued, or approved under this chapter, or for the payment of any fee owed the United States under this chapter (other than subchapter II of this chapter).

(3) Whenever such person attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been

made

Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred, or is occurring, or in which the defendant resides, or where the defendant's principal place of business is located, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty, to collect any fees owed the United States under this chapter (other than subchapter II of this chapter) and any noncompliance assessment and nonpayment penalty owed under section 7420 of this title, and to award any other appropriate relief. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the party or parties against whom such action was brought if the court finds that such action was unreasonable:

(c) Criminal penalties.

(1) Any person who knowingly violates any requirement or prohibition of an applicable implementation plan (during any period of federally assumed enforcement or more than 30 days after having been notified under subsection (a)(1) of this section by the Administrator that such person is violating such requirement or prohibition), any order under subsection (a) of this section, requirement or prohibition of section 7411 (e) of this title (relating to new source performance standards), section 7412 of this title, section 7414 of this title (relating to inspections, etc.), section 7429 of this title (relating to solid waste combustion), section (relating title (a) of this <u>7475</u>

preconstruction requirements), an order under section 7477 of this title (relating to preconstruction requirements), an order under section 7603 of this title (relating to emergency orders), section 7661a (a) or 7661b (c) of this title (relating to permits), or any requirement or prohibition of subchapter IV-A of this chapter (relating to acid deposition control), or subchapter VI of this chapter (relating to stratospheric ozone control), including a requirement of any rule, order, waiver, or permit promulgated or approved under such sections or subchapters, and including any requirement for the payment of any fee owed the United States under this chapter (other than subchapter II of this chapter) shall, upon conviction, be punished by a fine pursuant to title 18 or by imprisonment for not to exceed 5 years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

(2) Any person who knowingly-

(A) makes any false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan, or other document required pursuant to this chapter to be either filed or maintained (whether with respect to the requirements imposed by the Administrator or by a State):

(B) fails to notify or report as required under

this chapter; or

(C) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this chapter [2]

shall, upon conviction, be punished by a fine pursuant to title 18 or by imprisonment for not more than 2 years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

(3) Any person who knowingly fails to pay any fee owed the United States under this subchapter, subchapter III, IV-A, V, or VI of this chapter shall, upon conviction, be punished by a fine pursuant to title 18 or by imprisonment for not more than 1 year, or

both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and

imprisonment.

Any person who negligently releases into the ambient air any hazardous air pollutant listed pursuant to section 7412 of this title or any extremely hazardous substance listed pursuant to section 11002 (a)(2) of this title that is not listed in section 7412 of this title, and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 or by imprisonment for not more than 1 year, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph; the maximum punishment shall be doubled with respect to both the fine and imprisonment.

(A) Any person who knowingly releases into the ambient air any hazardous air pollutant listed pursuant to section 7412 of this title or any extremely hazardous substance listed pursuant to section 11002 (a)(2) of this title that is not listed in section 7412 of this title, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under

title 18 or by imprisonment of not more than 15 years, or both. Any person committing such violation which is an organization shall, upon conviction under. this paragraph, be subject to a fine of not more than \$1,000,000 for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any air pollutant for which the Administrator has set an emissions standard or for any source for which a permit has been issued under subchapter V of this chapter, a release of such pollutant in accordance with that standard or permit shall not constitute a violation of this paragraph or paragraph (4).

(B) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury—

(i) the defendant is responsible only for actual awareness or actual belief possessed; and

(ii) knowledge possessed by a person other than the defendant, but not by the defendant; may not be attributed to the defendant;

except that in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

- (C) It is an affirmative defense to a prosecution that the conduct charged was freely consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—
  - (i) an occupation, a business, or a profession; or
  - (ii) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

The defendant may establish an affirmative defense under this subparagraph by a preponderance of the evidence.

- affirmative general defenses. (D) All defenses, and bars to prosecution that may apply with respect to other Federal criminal offenses may apply under subparagraph (A) of this paragraph and shall be determined by the courts of the United States according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed in the light of reason and experience.
- (E) The term "organization" means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

- (F) The term "serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- (6) For the purpose of this subsection, the term "person" includes, in addition to the entities referred to in section 7602 (e) of this title, any responsible corporate officer.

### (d) Administrative assessment of civil penalties

- (1) The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000, per day of violation, whenever, on the basis of any available information, the Administrator finds that such person—
  - (A) has violated or is violating any requirement or prohibition of an applicable implementation plan (such order shall be issued
    - (i) during any period of federally assumed enforcement, or
    - (ii) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of this section of a finding that such person has violated or is violating such requirement or prohibition); or
  - (B) has violated or is violating any other requirement or prohibition of this subchapter or subchapter III, IV-A, V, or VI of this chapter, including, but not limited to, a requirement or prohibition of any rule, order, waiver, permit, or plan promulgated, issued, or approved under this chapter, or for the payment of any fee owed the United States under this chapter (other than subchapter II of this chapter);
  - (C) attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed \$200,000 and the first alleged date of violation occurred no more than 12 months prior to the initiation of the administrative action, except where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount or longer period of violation is appropriate for administrative penalty action.

Any such determination by the Administrator and the Attorney General shall not be subject to judicial review.

**(2)** 

- (A) An administrative penalty assessed under paragraph (1) shall be assessed by the Administrator by an order made after opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5. The Administrator shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty. of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person.
- (B) The Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under this subsection.
- The Administrator may implement, after consultation with the Attorney General and the States, a field citation program through regulations establishing appropriate minor violations for which field citations assessing civil penalties not to exceed \$5,000 per day of violation may be issued by officers or employees designated by the Administrator. Any person to whom a field citation is assessed may, within a reasonable time as prescribed by the Administrator through regulation, elect to pay the penalty assessment or to request a hearing on the field citation. If a request for a hearing is not made within the time specified in the regulation, the penalty assessment in the field citation shall be final. Such hearing shall not be subject to section 554 or 556 of title 5, but shall provide a reasonable opportunity to be heard and to present evidence. Payment of a civil penalty required by a field citation shall not be a defense to further enforcement by the United States or a State to correct a violation, or to assess the statutory maximum penalty pursuant to other authorities in the chapter, if the ... violation continues.
- (4) Any person against whom a civil penalty is assessed under paragraph (3) of this subsection or to whom an administrative penalty order is issued under paragraph (1) of

this subsection may seek review of such assessment in the United States District Court for the District of Columbia or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, by filing in such court within 30 days following the date the administrative penalty order becomes final under paragraph (2), the assessment becomes final under paragraph (3), or a final decision following a hearing under paragraph (3) is rendered, and by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. Within 30 days thereafter, the Administrator shall file in such court a certified copy, or certified index, as appropriate, of the record on which the administrative penalty order or assessment was issued. Such court shall not set aside or remand such order or assessment unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the order or penalty assessment constitutes an abuse of discretion. Such order or penalty assessment shall not be subject to review by any court except as provided in this paragraph. In any such proceedings, the United States may seek to recover civil penalties ordered or assessed under this section.

5) If any person fails to pay an assessment of a civil penalty or fails to comply with an administrative penalty order—

(A) after the order or assessment has become final or

(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Administrator.

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to enforce the order or to recover the amount ordered or assessed (plus interest at rates established pursuant to section 6621 (a)(2) of title 26 from the date of the final order or decision or the date of the final judgment, as the case may be). In such an action, the validity, amount appropriateness of such order or assessment shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to

attorneys fees and costs incurred by the United States for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter.

(e) Penalty assessment criteria

(1) In determining the amount of any penalty to be assessed under this section or section 7604 (a) of this title, the Administrator or the court, as appropriate, shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. The court shall not assess penalties for noncompliance with administrative subpoenas under section 7607 (a) of this title, or actions under section 7414 of this title, where the violator had sufficient cause to violate or fail or refuse to comply with such subpoena or action.

(2) A penalty may be assessed for each day of violation. For purposes of determining the number of days of violation for which a nocellar, many how assessed under subsection (h), or (d)(1) of this section, or section 7604 (a) of this-title, or an assessment may be made under section 7420 of this title, where the Administrator or an air pollution control agency has notified the source of the violation, and the plaintiff makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice and each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

(f) Awards

The Administrator may pay an award, not to exceed \$10,000, to any person who furnishes information or services which lead to a criminal conviction or a judicial or administrative civil penalty for any violation of this subchapter or subchapter III, IV-A, V; or VI of this chapter enforced under this section. Such payment is subject to available appropriations for such purposes as provided in annual appropriation Acts. Any officer, [3] or employee of the United States or any State or local government who furnishes information or renders service in the performance of an official duty is ineligible for payment under this subsection. The Administrator may, by regulation, prescribe additional criteria for eligibility for such an award.

(g) Settlements; public participation

At least 30 days before a consent order or settlement agreement of any kind under this chapter to which the United States is a party (other than enforcement actions under this section, section 7420 of this title, or subchapter II of this chapter, whether or not involving civil or criminal penalties, or judgments subject to Department of Justice policy on public participation) is final or filed with a court, the Administrator shall provide a reasonable opportunity by notice in the Federal Register to persons who are not named as parties or intervenors to the action or matter to comment in writing. The Administrator or the Attorney General, as appropriate, shall promptly consider any such written comments and may withdraw or withhold his consent to the proposed order or agreement, if the comments disclose facts or considerations which indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of this chapter. Nothing in this subsection shall apply to civil or criminal penalties under this chapter.

(h) Operator

For purposes of the provisions of this section and section 7420 of this title, the term "operator", as used in such provisions, shall include any person who is senior management personnel or a corporate officer. Except in the case of knowing and willful violations, such term shall not include any person who is a stationary engineer or technician responsible for the operation, maintenance, repair, or monitoring of equipment and facilities and who often has supervisory and training duties but who is not senior management personnel or a corporate officer. Except in the case of knowing and willful violations, for purposes of subsection (c)(4) of this section, the term "a person" shall not include an employee who is carrying out his normal activities and who is not a part of senior management personnel or a

corporate officer. Except in the case of knowing and willful violations, for purposes of paragraphs (1), (2), (3), and (5) of subsection (c) of this section the term "a person" shall not include an employee who is carrying out his normal activities and who is acting under orders from the employer.

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### CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON September 28, 2016, I MAILED A TRUE COPY OF THE ATTACHED DOCUMENT BY CERTIFIED MAIL-RETURN RECEIPT REQUESTED, ARTICLE NUMBERS 7015-0640-0001-0675-5500 POSTAGE PRE-PAID, UPON THE FOLLOWING PERSON(S):

Mr. Richard Kuhl, Vice President State Metal Industries Inc. 941 S Second Street Camden, New Jersey 08103

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